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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/907,513	07/17/2001	Werner Kerzendorf	U 013457-4	5747

7590                    06/18/2003

Ladas & Parry  
26 West 61 Street  
New York, NY 10023

[REDACTED] EXAMINER

HARTMAN JR, RONALD D

ART UNIT	PAPER NUMBER
2121	[REDACTED]

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/907,513	KERZENDORF ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ronald D Hartman Jr.	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 July 2001.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. Claims 1-8 are presented for examination.
2. Priority is granted for 7/18/2000.

### ***Claim Objections***

3. Claims 1 and 4 are objected to because they use "x" for too many, and what appears to be different, "states". The applicant should rewrite the claim eliminating the use of "x", "y" and " $x_0$ " as notations are not given patentable weight and merely confuse the reader. Therefore, due to the confusing nature of the preamble, the examiner is unsure as to what exactly is being improved upon by the applicant.
4. Claim 1; delete "entire relevant" in line 10.
5. Claim 1 recites, "with approximation functions with negligible error" in lines 8-9. The examiner is unsure as to what is meant by this limitation.
6. Claim 1 recites, "at least in a selection of approximation regions,". The examiner is again unsure as to what is intended with regards to this limitation.
7. Claim 1 ends in a comma.

Note: Due to the large number of problems associated with the claims, only claims 1 and 4 have been addressed and the applicant is asked to review all the claims in light of the comments made with regards to claim 1 above.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 1 recites "the respective state", "the sought state", "the entire relevant state region" and "the state region". There is insufficient antecedent basis for these limitations in this claim.

11. Claim 1 recites, "determining all local minimum on the basis of the approximation" in line 11. However, there are 3 different approximations that are described previously with regards to this claim; an approximation region, an approximation function and an approximation of a cost function. Since the examiner will not speculate as to the intended meaning of the claims, and since claim 1 is so poorly written (see objections above), the examiner believes that examination based on prior art is not feasible. The examiner believes that if he does not adequately understand the intended meaning of the pending claims, an undue burden would be placed on the examiner if he was required to do a search with regards to the prior art of record.

12. Therefore, since the only independent claim (claim 1), as presented, does not allow for proper examination over the prior art, all art rejections will held in abeyance until such time as the applicant has drafted claims that are clear and adequately claim the intended invention.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (703) 308-7001. The examiner can normally be reached Monday-Friday, 11:30 am – 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached at (703) 305-8498. The fax number for this examiner is (703) 746-5408.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9618.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(703) 746-7239, (for formal communications intended for entry)

**Or:**

(703) 746-7240, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Ronald D. Hartman Jr.  
Patent Examiner  
Art Unit 2121  
June 16, 2003



JOHN FOLLANSBEE  
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